IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 14919 of 2004

Between:

N.Koteswara Rao, s/o Hanumaiah,
r/o Gadiprathivaripalem, Chimakurthi Mandal, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Ongole, Prakasam District.
2 The Revenue Divisional Officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, Chimakurthi Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus, declaring the action of the 1st respondent in rejecting to grant the stay of proceedings of the 2nd respondent dated 17-07-2004 in RC.C/852/2004 as illegal, arbitrary and against the principles of natural justice and consequently direct the respondents to allow the petitioner to act as fair price shop dealer of Gadiparthivari Palem, Chimakurthi Mandal, Prakasam District

Counsel for the Petitioner: MR.T.RAJENDRA PRASAD

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

Petitioner is an authorised dealer of Fair Price Shop of Gadiprathivaripalem village. His authorisation was suspended by the Revenue Divisional Officer by proceedings dated 17.07.2004, pending enquiry into alleged irregularities in the distribution of essential commodities. Against the said order, the petitioner preferred an appeal before the Joint Collector, Ongole, Prakasam District, along with an application for stay on 31.07.2004. The Joint Collector having entertained the appeal, by orders dated 08.08.2004 rejected the application for stay. Aggrieved by the same, this writ petition is filed.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

The learned counsel for the petitioner vehemently contended that the order of Joint Collector, dated 08.08.2004 rejecting the application for stay without affording any opportunity to the petitioner and without referring to any one of the contentions raised by the petitioner in the appeal is unsustainable and the same is in violation of principles of natural justice. He contends that the order of the Joint Collector is cryptic and passed in a mechanical way.

A perusal of the impugned order dated 08.08.2004 makes it clear that the first respondent has rejected the stay as sought by the petitioner without assigning any reasons in support of his conclusion. Such an order passed by the appellate authority while considering the statutory appeal, is not sustainable. The 1st respondent ought to

have considered the question whether the suspension of authorisation is warranted pending enquiry in the facts and circumstances of the case.

In the circumstances, I deem it appropriate to set aside the order dated 08.08.2004 and the writ petition is disposed of with a direction to the Joint Collector to consider the application for stay filed by the petitioner and pass appropriate orders in accordance with law afresh as expeditiously as possible, preferably within a period of one week from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs.

23.08.2004

VGB

To

1 The Joint Collector, Ongole, Prakasam District.
2 The Revenue Divisional Officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, Chimakurthi Mandal, Prakasam District.

4 2CCs to the Government Pleader for Civil Supplies, High Court

Buildings, Hyderabad.

5 2CD copies